



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 04989-00

5 October 2000

SSGT BILLY [REDACTED] USMC

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) in your case, dated 13 July 2000, and the advisory opinion from the HQMC Equal Opportunity Branch, dated 22 August 2000, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB and the advisory opinion. The Board was unable to find the contested fitness report for 1 January to 15 December 1995 should have reflected improvement in your performance from the previous reporting period. They were likewise unable to find you had a personality conflict with your reporting senior, but they noted it is a subordinate's responsibility to get along with superiors. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

4989-00
IN REPLY REFER TO:
1610
MMER/PERB
13 JUL 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED], USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 12 May 00
(b) MCO P1610.7C w/Ch 1-6

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 12 July 2000 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the following fitness reports was requested:

- a. Report A - 940626 to 941231 (AN)
- b. Report B - 950101 to 951215 (CH)

Reference (b) is the performance evaluation directive governing the submission of both reports.

2. The petitioner contends that the reports at issue are biased and not based on performance. He further alleges that he was not properly counseled and claims disparity between the markings in Section B and the comments in Section C. To support his appeal, the petitioner furnishes his own statement, six advocacy statements, and copies of the fitness reports.

3. In its proceedings, the PERB concluded that both reports are administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Contrary to the petitioner's inferences and belief, and notwithstanding the letters furnished in support of reference (a), the Board finds absolutely nothing to show that either report is a product of bias. Both evaluations are, in all respects, extremely positive accounts of exemplary performance with no reported deficiencies.

b. There is no discernible disparity or inconsistency in either report. The disagreements which he has surfaced are viewed as simply his opinion of the degree of success achieved vice that of the Reporting Senior. Simply stated, since there was no deficient performance, there was nothing on which to

4487

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] JR [REDACTED] USMC

specifically counsel. [REDACTED] the petitioner's allegation that he was not properly counseled--and had been misled--is considered without merit or substance.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
D. [REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

5354
MPE
22 Aug 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF SSGT [REDACTED]

Ref: (a) MCO P5354.1C

1. Non-concur with [REDACTED] BCNR application.
2. The request was carefully reviewed and no violation of the reference could be substantiated. Specifically, the information provided in the BCNR package contained no evidence of discrimination based on race, gender, ethnicity, or age.
3. Point of contact is [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Deputy
Manpower Equal Opportunity Branch
Manpower Plans and Policy Division